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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,220	07/02/2003	Ronald T. Bell	29498/38437A	5746
4743	7590	12/15/2004	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606			BAXTER, GWENDOLYN WRENN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/612,220	BELL, RONALD T.
	Examiner Gwendolyn Baxter	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 September 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 4 and 5 is/are allowed.
- 6) Claim(s) 1-3, 6-14 and 16-21 is/are rejected.
- 7) Claim(s) 15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/27/03, 5/7/04 and 9/22/04</u>	6) <input type="checkbox"/> Other: _____

This is the second Office action of application serial number 10/612,220, Combination Spring Tension Rod and Mounting Brackets for Window Covering, filed July 2, 2003.

*Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 140 on page 9, line 27. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

The disclosure is objected to because of the following informalities: page 6, line 2, "tab 42" should read -tab 52-.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 6, 7, 14, 17, 16 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the mounting bracket" in line 11, and "the bearing surfaces" in line 12. There is insufficient antecedent basis for this limitation in the claim.

In lines 13 and 14 of claim 1, 'a window opening" should read -the window opening-, since antecedence has been provided at line 8 of this claim.

In claim 14, line 4, "a pair of mounting brackets, one each coupled" should read -a pair of mounting brackets, one of each coupled-. A similar problem occurs in claim 17, line 4.

In claim 16 and 17, lines 4 and 13, respectively, "its" should be replaced with the proper noun to avoid any ambiguity, thus distinctly claiming and particularly pointing out the subject matter.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the tab in relation to the other components of the mounting bracket.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 962175 A1 to Alaurent. The present invention reads on Alaurent as follows: Alaurent teaches a bracket assembly comprises a mounting section (5), and a rod interface (8, 13). The mounting section defines a bearing surface (11) in a first direction. The rod interface is coupled to the mounting section and faces in a second direction generally opposite the first direction. The rod interface is adapted to connect with one end of a spring tension rod (2). The rod interface is arranged relative to the bearing surface to position the rod interface spaced away from a window opening in a direction generally perpendicular to the first and second directions when the bearing surface is borne against a surface of the window opening. The mounting brackets are rotationally aligned with one another about the rod axis and the bearing surfaces of the respective mounting brackets face generally outwardly opposite one another. The mounting bracket flexes inwardly to bear substantially flush against opposed surfaces of a window opening when the tension rod is installed, since the mounting bracket is formed from injection molded plastic, which inherently is flexible. An elbow section (near 5 including 8, 13) is coupled to the mounting section and defining the rod interface. The mounting section and the elbow section are integrally formed as a one-piece structure in its operative state. The mounting section further comprises an anti-rotation tab (12) extending outwardly in the first direction relative to the bearing surface and generally perpendicular to the bearing surface. This tab is positioned to prevent downward rotation of the spring tension rod when installed.

Claim 8, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 833,557 to Snyder. The present invention reads on Snyder as follows: Snyder teaches a bracket assembly comprises a mounting section (P2), and a rod interface (S). The mounting section defines a bearing surface (the lead line is pointing directing the to the bearing surface) in a first direction. The rod interface is coupled to the mounting section and facing in a second direction generally opposite the first direction. The rod interface is adapted to connect with one end of a spring tension rod (D). The rod interface is arranged relative to the bearing surface to position the rod interface spaced away from a window opening in a direction generally perpendicular to the first and second directions when the bearing surface is borne against a surface of the window opening. A sharp pointed tag extends outwardly in the first direction relative to the bearing surface and generally perpendicular to the bearing surface. See figures 2 and 3. The mounting bracket includes a mounting section and rod interface. Each mounting bracket is adapted to rotationally aligned with one another about the rod axis.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alaurent '175.

Alaurent teaches the limitations of the base claim, excluding the mounting section and the

elbow section being separate parts. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have separated the mounting section from the elbow section, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alaurent '175 in view of U.S. Patent No. 5,143,336 to McMichael. Alaurent teaches the limitations of the base claim, excluding a fastener opening. McMichael teaches a bearing surface having a fastening opening therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bearing surface as taught by Alaurent to have incorporated the fastening opening as taught by Alaurent for the purpose of receiving a fastener and further stabilizing the device on the frame of the window.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of Alaurent '175. Snyder teaches the limitations of the base claim, excluding an anti-rotation tab. Alaurent teaches anti-rotation tab. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bearing surface to have incorporated the anti-rotation tab to be adjacent thereto for the purpose of stabilizing the bracket assembly when installed.

#### *Allowable Subject Matter*

Claims 4 and 5 are allowed.

Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fail to teach the mounting section having a male attaching mechanism received in a female receptacle end of the elbow section, in combination with the other elements recited.

*Response to Arguments*

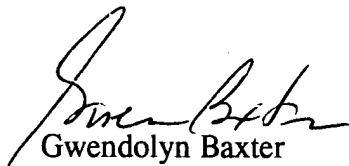
Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

December 10, 2004